

December 15, 2014

West Des Moines City Council Proceedings
Monday, December 15, 2014

Mayor Steven K. Gaer opened the regularly scheduled meeting of the City Council of West Des Moines, Iowa, in the Council Chambers of the West Des Moines City Hall on Monday, December 15, 2014 at 5:30 PM. Council members present were: R. Messerschmidt, J. Mickelson, J. Sandager, K. Trevillyan, and R. Trimble.

On Item 1. Agenda. It was moved by Trevillyan, second by Sandager approve the agenda as presented.

Vote 14-587: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 2. Public Forum: No one came forward.

On Item 3. Council/Manager/Other Entities Reports:

Police Chief Shaun LaDue introduced Lieutenants Ken O'Brien and Jody Hayes and Officer Joe Curtis, who were then sworn in by Mayor Gaer.

Council member Sandager reported he attended a meeting of the Metro Advisory Council, where discussion was held on potential regional ordinances regarding permeable pavement and parking maximums. He also attended a meeting of the Development and Planning Subcommittee, where discussion was held on stormwater management for a proposed development project by Keller Williams.

Council member Mickelson stated Sean Nielsen, his friend and high school classmate who passed away earlier this year, will be honored at tomorrow's Valley High School basketball game and a retractable flag will be dedicated to him.

Council member Messerschmidt reported he attended a meeting of the Public Works Subcommittee, where discussion was held on addressing the premature deterioration of some concrete streets and concerns related to the spring clean-up program.

Bret Hodne, Public Works Director, reported the City of West Des Moines, along with Des Moines Asphalt and Paving, received a smoothness award from the Asphalt Paving Association of Iowa for recent work done on EP True Parkway. He commended Public Works staff Bob Fernandez and Kelly Sand for their contributions towards this project.

On Item 4. Consent Agenda.

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Council members pulled Item 4(f)1 for discussion. It was moved by Trimble, second by Sandager to approve the consent agenda as amended.

- a. Approval of Minutes of December 1, 2014 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
 - 1. AsherZ, LLC d/b/a Eighty Six'd, 101 Jordan Creek Parkway, Suite 12520 - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
 - 2. Finding Iowa, LLC d/b/a Finding Iowa, 413 Maple Street - Class B Native Wine Permit with Sunday Sales - New
 - 3. LLK Inc. d/b/a Funny Bone Comedy Club & Restaurant, 560 South Prairie View Drive, Suite 100 - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal
 - 4. Hy-Vee, Inc., d/b/a Hy-Vee Meeting Room, 1725 Jordan Creek Parkway, 2nd Floor Meeting Room - Class BW Permit with Sunday Sales - Renewal
 - 5. J.P. Parking Inc. d/b/a J.P. Parking Inc., 6220 Raccoon River Drive - Class BC Beer Permit with Carryout Wine and Sunday Sales - Renewal
 - 6. Sheroc, LLC d/b/a NYC Pizza Café, 6305 Mills Civic Parkway, Suite 3111 - Class BW Permit with Sunday Sales - Renewal
 - 7. 205 Corporation d/b/a The Tavern, 205 5th Street - Class LC Liquor License with Sunday Sales - Renewal
 - 8. 205 Corporation d/b/a The Tavern Pizza Pasta Grill, 1755 50th Street - Class LC Liquor License with Sunday Sales - Renewal
- d. Approval of Revised 2014-2015 Committee/Liaison Assignments
- e. Approval of Application - FEMA 2015 Fire Grant
- f. Approval of Agreements:
 - 2. Memorandum of Agreement - Food Bank of Iowa
 - 3. Memorandum of Understanding - Central Iowa Regional Public Safety Communications System
- g. Accept Work - Huston Ridge Park Basketball Court
- h. Approval and Acceptance of Purchase Agreements and Easements - Fox Creek Sanitary Sewer Project
- i. Proclamation - Human Rights Day - December 10, 2014

Vote 14-588: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 4(f)1 Approval of Licensing Agreement - VyvaCity

Council member Trevillyan inquired about which organizations will be able to promote their events on VyvaCity and if there will be a charge to do so.

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City Manager Tom Hadden responded staff will have to establish guidelines for which organizations should be able to use VyvaCity and he stated there will be no charge to users.

It was moved by Trevillyan, second by Trimble to approve Item 4(f)1 Approval of Licensing Agreement - VyvaCity with an amendment to replace the automatic renewal language in the agreement with language requiring City Council approval to renew the initial two-year agreement.

Vote 14-589: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(a) Grand Valley (Ver Ploeg Property), northeast corner of South 35th Street and Grand Avenue - Rezone approximately 34.5 acres from Residential Medium Density to Planned Unit Development (PUD) to Allow for Development of Single Family Residential and Residential Medium Density, initiated by CRVP, LLC

It was moved by Messerschmidt, second by Trimble to consider the second reading of the ordinance.

Vote 14-590: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Sandager, second by Trimble to approve the second reading of the ordinance.

Vote 14-591: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

It was moved by Sandager, second by Trimble to waive the third reading and adopt the ordinance in final form.

Vote 14-592: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(b) Vacation of a Part of Parcel C (part of 98th Street) Right-of-Way, south of the Union Pacific Railroad at 98th Street, initiated by the City of West Des Moines

It was moved by Trimble, second by Trevillyan to consider the second reading of the ordinance.

Vote 14-593: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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The City Clerk read the preamble to the ordinance.

It was moved by Trimble, second by Trevillyan to approve the second reading of the ordinance.

Vote 14-594: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

It was moved by Trimble, second by Trevillyan to waive the third reading and adopt the ordinance in final form.

Vote 14-595: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(a) Mayor Gaer indicated this was the time and place for a public hearing to consider 98th Street Planned Unit Development, southeast corner of University Avenue and 98th Street - Amend the Planned Unit Development (PUD) to Change the Front Yard Setback along Bishop Drive for PUD Parcel B, initiated by Hawthorne Plaza, LLC. He asked for the date the notice was published and the City Clerk indicated the notice was published on November 28, 2014 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 6-0, with one member absent, the Plan and Zoning Commission recommended City Council approval of the proposed PUD amendment.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trimble, second by Sandager to consider the first reading of the ordinance.

Council member Mickelson stated he has spoken with a couple business owners in the area and they have no issues with the proposed PUD amendment, so he is in full support of it.

Vote 14-596: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trimble, second by Sandager to approve the first reading of the ordinance.

Vote 14-597: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(b) Mayor Gaer indicated this was the time and place for a public hearing to consider Amendment to City Code - Title 9 (Zoning), Chapter 1 (Entitlements, Process and Procedures), Section 8-A-4 (Entitlements, Processes and Procedures) - Minor Modification Ordinance

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Amendment, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on October 31, 2014 in the Des Moines Register (continued from November 17 and December 1 meetings). Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 7-0, the Plan and Zoning Commission recommended City Council approval of the proposed City Code amendment.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Sandager, second by Trimble to consider the first reading of the ordinance.

The Mayor and Council expressed support for this proposed code amendment and requested that staff report to the Development and Planning Subcommittee on any future cases where a minor modification benefits from this ordinance.

Vote 14-598: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Sandager, second by Trimble to approve the first reading of the ordinance.

Vote 14-599: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(c) Project Mountain, northwest corner of South 88th Street and Grand Avenue - Agreement for Private Development, initiated by Microsoft Corp. (continued from November 17, 2014 and December 1, 2014)

Mayor Gaer noted staff is recommending the Council continue the Public Hearing indefinitely.

It was moved by Sandager, second by Trimble to adopt Motion - Continue Public Hearing Indefinitely.

Vote 14-600: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(d) Mayor Gaer indicated this was the time and place for a public hearing to consider Alluvion Water Main Improvements Project, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on December 5, 2014 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

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Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trimble, second by Sandager to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Vanderpool Construction, Inc.

Council member Trevillyan stated he will abstain on this item due to a potential conflict of interest.

Vote 14-601: Messerschmidt, Mickelson, Sandager, Trimble...4 yes
Trevillyan... 1 abstain due to potential conflict of interest
Motion carried.

On Item 6(e) Mayor Gaer indicated this was the time and place for a public hearing to consider Ashworth Road Low Pressure Sewer, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on December 5, 2014 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trevillyan, second by Sandager to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Ellingson Drainage, Inc.

Council member Trimble expressed concerns that all the bids came in higher than the engineer's estimate and he requested background information on this item.

Duane Wittstock, City Engineer, reported there are five properties included in this project, which was petitioned by one of the property owners that had a failing septic system. A fee district was established and the project cost was estimated to be approximately \$20,000 per property. He stated the Council does have the option to not award the contract so the fees can be adjusted higher; however, he noted that would likely make it no longer economically feasible for the property owners to proceed with financing the improvements.

Council member Trimble inquired about staff's perception of whether or not a re-bid would result in lower bids.

Mr. Wittstock responded that since the bids were fairly well grouped, the engineer that reviewed them believes they are reasonable, so staff does not expect that a re-bid would result in lower bids.

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Council member Trevillyan noted that Dixie Acres needs sanitary sewer, and he inquired if there could be a benefit to grouping the two projects together.

Mr. Wittstock responded that the Dixie Acres project is very early in the process, so it is not ready to move forward with the sanitary sewer, and since one of the Ashworth Road property owners needs the sewer immediately, it does not make sense to delay this project for Dixie Acres.

Tim Stiles, Finance Director, stated there is an ultimate payback for these sanitary sewer projects, because the property owners will pay sewer fees long-term in the future. He also noted the City's sewer fee fund exists for the purpose of installing sanitary sewer for properties like these.

Mr. Wittstock stated there are limited numbers of areas in the City with on-site treatment, and the Public Works Subcommittee will be reviewing those areas soon. He noted the last time the Subcommittee reviewed those areas a couple years ago, the direction to staff at the time was to work towards providing solutions to make sanitary sewer available to those properties that don't have it.

Vote 14-602: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(a) West Des Moines Storage, 1395 Hoak Drive - Subdivide Property to Create One Lot for Future Development, initiated by West Des Moines Storage

It was moved by Sandager, second by Trimble to adopt Resolution - Approval and Release of Final Plat for Recordation, subject to the applicant complying with all applicable City Code requirements.

Vote 14-603: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(b) Village Cooperative, 845 South 60th Street - Subdivide Property into Three Parcels and One Public Street Lot and Approval to Construct a 53 Unit Senior Apartment Building, initiated by Real Estate Equities Development, LLC

It was moved by Sandager, second by Messerschmidt to adopt Resolution - Approval of Preliminary Plat and Overlay District Site Plan, subject to the applicant complying with all applicable City Code requirements and the following conditions of approval:

1. The applicant agreeing to work with city staff in the design and physical construction of S60th Street adjoining the property;

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2. The applicant acknowledging and agreeing to meet fire requirements including but not limited to, wet standpipes in the garage and stairwells, full sprinklering including attics, and alarms in accordance with WDM Fire Code, including addendums;
3. Prior to initiating any site work, including grading, if not already done, the applicant providing to the City a copy of the Storm Water NPDES General Permit No. 2 authorized by the Iowa DNR;
4. Prior to initiating any site work, including grading, the applicant receiving written approval from adjacent property owners for any grading, soil placement, construction staging, etc. done on adjacent property not under ownership of the applicants;
5. Prior to issuance of a building permit, the applicant providing appropriate accesses for emergency services to the satisfaction of the Fire Marshal;
6. In conjunction with the approval and recordation of the Final Plat which includes Lot 1, the applicant deeding Public Street right-of-way for S60th Street adjacent to Lot 1;
7. In conjunction with the approval and recordation of the associated Final Plat which includes Lot 1, the applicant providing a Storm Water Management Facility Maintenance Agreement (SWMFMA) encompassing those storm water management facilities which provide detention for the subject property; and,
8. In conjunction with the approval and recordation of the Final Plat which includes Lot 1, the applicant providing Ingress/Egress – Cross Access Agreements for drive connections to the properties to the north and south.

Vote 14-604: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(c) Mills Crossing, northwest corner of Mills Civic Parkway and South 60th Street - Plat of Survey to Transfer Right-of-Way, initiated by Hurd Mills, LLC

It was moved by Sandager, second by Trimble to adopt Resolution - Approval of Plat of Survey, subject to the applicant complying with all applicable City Code requirements and the following conditions of approval:

1. The applicant providing surety for the installation of public sidewalks along all boundaries prior to the approval of the first overlay district site plan for property within Parcel B of the Plat-of-Survey;
2. The applicant paying for street lights along the boundaries of the development adjacent to the public streets, prior to the approval of the first overlay district site plan for property

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within Parcel B of the Plat-of-Survey;

3. Providing an ingress/egress easement(s) to the adjoining Village of Ponderosa development, prior to approval of the first overlay district site plan for property within Parcel B of the Plat-of-Survey;
4. The applicant agreeing to provide public sanitary sewer and respective easements with each overlay district site plan for property within Parcel B of the Plat-of-Survey;
5. The applicant providing a deed for Parcel A for right-of-way purposes, prior to the plat of survey being recorded.

Vote 14-605: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(d) Grand Avenue Improvements, Phase 6 (South 35th Street to South 50th Street), initiated by the City of West Des Moines

It was moved by Trimble, second by Sandager to adopt Motion - Approval of Staff Recommendations.

Council member Trevillyan stated he does not agree with the staff recommendations that the City pay the full cost of the trail on the north side of Grand Avenue and that the sidewalk on the south side be deferred and then the cost split evenly between the property owners from both sides of the Grand Avenue at such time the sidewalk is installed. He noted staff has identified 45 areas of the city where homes have been responsible for public sidewalks in both the front and back of the properties. He feels the staff recommendation gives special treatment to these property owners along Grand Avenue. He requested additional information about the fund that will be set aside to reimburse property owners to replace vegetation removed for the project.

Council member Trimble responded the proposed fund would reimburse property owners for 50 percent of the cost to re-establish vegetation removed from the right-of-way, and the City will review the property owners' landscaping plans to verify that the proposed locations will not have an adverse impact to public safety or underground utilities and that they would be suitable locations for the vegetation to grow.

Council member Trevillyan stated he believes the proposed arrangement gives preferential treatment to the property owners losing vegetation for this project, since such accommodations were not made for property owners that have had vegetation removed for other projects.

Martin Schafer, 4115 Quail Park Drive, inquired what the staff recommendation was for left turn lanes for the side streets entering Grand Avenue.

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Mayor Gaer responded the staff recommendation included the construction of 50-foot left turn lanes on South 42nd Street and Quail Park Drive.

Council member Trevillyan noted the Council communication indicated it was reviewed by the Public Works Subcommittee, but it was actually reviewed by the Finance and Administration Subcommittee. He acknowledged the importance of the proposed improvements to Grand Avenue; however, he will vote against the motion because he wanted to defer action on the sidewalks, trail, and landscaping for further review.

Kurt Pearson, 1970 South 40th Court, expressed appreciation to the Finance and Administration Subcommittee for its recommendation that the City pay for the construction of the trail along the north side of Grand Avenue, because he believes the entire community will use the trail.

Council member Trimble stated he believes there are policy issues related to sidewalks and trails that the City needs to address, and he wants the Council to begin working on addressing those issues, but he believes approving the staff recommendation could start that by addressing the issues specifically related to this project.

Council member Trevillyan stated he is opposed to the staff recommendation because he wants all residents to be treated equally.

Council member Trimble stated he also wants the residents to be treated equally, and he believes that can eventually be achieved if the policy issues related to sidewalks and trails are addressed little by little.

Vote 14-606: Messerschmidt, Mickelson, Sandager, Trimble...4 yes

Trevillyan... 1 no

Motion carried.

Mayor Gaer asked staff to write a summary of what the Council has approved and distribute it to the Council and all the residents near the project.

On Item 8(a) Amendment to City Code - Title 9 (Zoning), Chapter 2 (Rules and Definitions) and Chapter 6 (Commercial, Office and Industrial Zoning Districts) - Add a Definition for Antiques and Collectibles and Make Antiques a Permitted Use in the Neighborhood Commercial Zoning District - City Initiated - Referred to Plan and Zoning Commission

On Item 9 - Other Matters

Council member Messerschmidt stated he believes City policies do need to be reviewed on a regular basis to ensure they make sense, so he supports reviewing the sidewalk/trail policy, as well as other longstanding City policies that might need to be reviewed.

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Council member Trimble expressed a desire to work on addressing City policies related to double frontage lots and the sidewalk program.

Jim Falvey, 1612 South 42nd Street, President of the Quail Park Homeowners Association, inquired how the public can find the details on what the Council approved related to Item 7(d) Grand Avenue Improvements - Phase 6.

Mayor Gaer responded staff will prepare a summary of what the Council approved and it will be distributed to the residents.

The meeting was adjourned at 6:50 p.m.

Respectfully submitted,

Ryan T. Jacobson, CMC
City Clerk

ATTEST:

Steven K. Gaer, Mayor